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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,848	03/26/2004	Atsushi Fukui	MAM-040	8123
20374	7590	09/18/2006		
KUBOVCIK & KUBOVCIK SUITE 710 900 17TH STREET NW WASHINGTON, DC 20006			EXAMINER MARTIN, ANGELA J	
			ART UNIT	PAPER NUMBER
			1745	

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/809,848

Applicant(s)

FUKUI ET AL.

Examiner

Angela J. Martin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is responsive to the Amendment filed on July 24, 2006. Applicant has amended claims 1 and 3. However, this Rejection is made final for the following reasons of record.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimoto et al., U.S. Pat. No. 6,887,623 B2, in view of Fukui et al., EP 1335438 A1.

Rejection of claims 1-11 drawn to a negative electrode and 14-15 drawn to rechargeable lithium battery; claims 12-13 drawn to a method of making negative electrode.

Fujimoto et al., teach a negative electrode for a rechargeable lithium battery (abstract) on a metal foil current collector (col. 2, lines 59-63), particles of active material containing silicon (col. 3, lines 19-28); the negative current collector has projections and recesses on its surface, the projection shaped to have a recurved side face portion that curves more outwardly as it extends closer to distal end of projection (Fig. 1-4). It teaches projection is shaped to include a narrow portion, which defines the recurved side face portion (Fig. 3). It teaches collector has a surface roughness of 0.01-

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2 μ m (col. 3, lines 11-14). It teaches surface roughening by electroplating process (col. 3, lines 29-35). It teaches a method by providing metal foil current collector having recesses and projections, providing anode mix including silicon on collector (col. 6, lines 30-50; col. 7, lines 14-20). It teaches a rechargeable lithium battery comprising negative electrode, positive electrode and nonaqueous electrolyte (col. 9, lines 46-53).

Fujimoto et al., do not teach a binder.

Fukui et al., teach a polyimide binder (sect. 0035). It teaches sintering in a non-oxidizing atmosphere (sect. 0031).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to insert the teachings of Fukui et al., into the teachings of Fujimoto et al., because the binder would provide increased adhesion of the active material to the substrate. It is well known in the lithium battery art to employ sintering in a non-oxidizing atmosphere in the manufacturing process as described in Fukui et al.

Response to Arguments

3. Applicant's arguments filed 7/24/06 have been fully considered but they are not persuasive. Applicant argues that claims a and 12 "require the sintering of an anode mix layer containing a binder and particles of an active material containing silicon and/or a silicon alloy." However, in col. 8, lines 12-16 of Fujimoto et al, it teaches that each electrode was heated, under vacuum, at 110 degrees C for 2 hours "to fabricate a working electrode" which is a "heat treatment" or a sintering. The Examiner takes the position that the recitation of "obtained by sintering" the active material is a product-by-

process limitation. Fujimoto et al., teaches an active material containing silicon (col. 3, lines 19-28) and teaches the current collector as a metal foil (col. 3, lines 36-43).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela J. Martin whose telephone number is 571-272-1288. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AJM


PATRICK JOSEPH RYAN
SUPERVISORY PATENT EXAMINER